

PLANNING COMMISSION (203) 797-4525 (203) 797-4586 (FAX)

# MINUTES SEPTEMBER 17, 2008

The Executive Session was called to order by Chairman Arnold Finaldi Jr. at 7:00 PM

Present were John Deeb, Kenneth Keller, Edward Manuel, Joel Urice, and Arnold Finaldi Jr. Also present was Associate Planner Jennifer Emminger and Assistant Corporation Counsel Robin Edwards.

Absent were Alternates Paul Blaszka, Fil Cerminara and Helen Hoffstaetter.

Mr. Urice made a motion to go into Executive Session to discuss Sycamore Trails Group LLC & Jose Cordeiro vs. the Danbury Planning Commission. Mr. Keller seconded the motion and it was passed unanimously.

Mr. Keller made a motion to come out of Executive Session. Mr. Urice seconded the motion and it was passed unanimously.

The regular meeting was called to order by Chairman Arnold Finaldi Jr. at 7:40 PM

Present were John Deeb, Kenneth Keller, Edward Manuel, Joel Urice, Arnold Finaldi Jr. and Alternates Fil Cerminara and Helen Hoffstaetter. Also present were Deputy Planning Director Sharon Calitro and Associate Planner Jennifer Emminger.

Absent was Alternate Paul Blaszka.

Chairman Finaldi said although they were not listed on the agenda, they had received the minutes from the following meetings: June 4, 2008, June 18, 2008, July 2, 2008, July 16, 2008, August 6, 2008 and September 3, 2008. Mr. Urice then made a motion to accept all of these minutes with two minor changes that he had discussed with the secretary. Mr. Keller seconded the motion and it was passed unanimously.

Mr. Urice then said regarding the Executive Session, he made a motion to direct the Planning Staff and Corporation Counsel to work on a draft stipulation and to schedule a public hearing on it. Additionally the draft stipulation is to be ready at least five days before the scheduled public hearing. Mr. Keller seconded the motion and it was passed unanimously.

# **PUBLIC HEARINGS:**

7:30 PM – <u>82 Mill Plain Rd Realty LLC – Application for Special Exception/Revised Site Plan to allow HVAC Contractor's Office & Associated Warehouse in the CA-80 Zone – 82 Mill Plain Rd. (#D15016) – SE #671.</u>

Mr. Keller read the legal notice. Mrs. Emminger explained that this was approved on June 4, 2008 and nothing has changed about the application. They are here tonight because the Grant of Special Exception was not filed within the required time period, so it became null and void. The applicant's engineer has resubmitted the same application and a letter requesting that everything from the previous file become part of this file. Mr. Urice made a motion to incorporate the entire record of the previous application into this record. Mr. Keller seconded the motion and it was passed unanimously. Mrs. Emminger then said since nothing has changed and there is no new testimony, she asked that they re-approve this per the same resolution from the June 4, 2008 approval. There were no questions or discussion.

Chairman Finaldi asked if there was anyone to speak in favor or in opposition to this application and there was no one.

Mr. Manuel made a motion to close the public hearing and move this matter to Old Business. Mr. Urice seconded the motion and it was passed unanimously

7:40 PM – Mulvaney Properties LLC – Application for Special Exception to allow a Manufacturing,
Office and R & D use ("Biodel, Inc.") generating in excess of 500 vehicle trips per day
in the IL-40 Zone – 100 Sawmill Rd. (#A17005) – SE #677.

Mr. Keller read the legal notice. Attorney Chris Donohue explained that their traffic engineer Michael Galante was unable to make this meeting, but will be at the next meeting. He said that with him were the Landscape Architect for the project and Eric Steiner and Carl Minor, both from Biodel.

Mark Kornhaas, Artel Engineering, said this is a 22.6 acre parcel that straddles the Danbury-Ridgefield line. He said it is located past the Reserve property opposite of Turner Rd. There is an existing building there that was previously used by Micronosis. It has a manmade pool with an aerator in it. They intend to make this reflecting pond a focal point of the architectural design of the site. Presently it is completely occupied by Biodel for their administrative offices. This project will be done in phases with the first phase being a new 34,000 sq.ft. R & D building with a new parking lot that will include handicapped spaces. The site presently is very limited

with regard to handicapped accessibility, so they will be bringing it up to code. They will be staging the use of the parking as the work proceeds by using the existing on-site parking also. They also are planning a 1,550 sq.ft. addition to the existing building for a break room. There will be a central core elevator that will allow access to both buildings from any level. They will reorganize the parking during phase 2, which consists of a 35,636 sq.ft. manufacturing building with some office space. For the work proposed in phase 1, they need 137 parking spaces and they have 145. They will need an additional 30 spaces for phase 2, so when that is complete, they will have a total of 192l. Mr. Kornhaas said the reason they are here is because the new break room and new building will increase the number of trips generated. He then said that phase 2 will generate an additional 211 trips per day. This site is located within a phase 2 watershed and their application is currently being reviewed by the EIC.

Mr. Keller asked if the town of Ridgefield needs to approve these plans also since the access to the site is through Ridgefield. Mr. Kornhaas said the Ridgefield Wetlands Commission has reviewed this and sent their comments to Danbury already. He said they also have sent the plans to the Ridgefield Planning Director and expect comments back from her very shortly. The sewer and water area available through Turner Rd. and they are coordinating with Ann's Place to access it. Most of Turner Rd. is in Danbury and we have a sewage pumping station down there. He then distributed some copies of the architectural renderings of the site. Mrs. Emminger said these are already on file so they would not need to be designated as an exhibit. Mr. Kornhaas said the proposed landscaping is far more than what is required, because they want to continue the corporate park theme. Ms. Hoffstaetter asked how these changes will impact the water. Mr. Kornhaas said there is a tremendous amount of water available because of the proximity to the Reserve. He said the building will be sprinklered, so the only possible shortfall would be pressure, but that can be addressed with a booster pump. Mr. Keller asked about wastewater discharge. Mr. Kornhaas said it is recorded and they have to maintain a permit for it through Public Utilities. There was a brief discussion about drainage, but no new information was added.

Chairman Finaldi asked if there was anyone to speak in opposition to this and there was no one.

Mr. Urice asked that Mr. Kornhaas verify in advance that Mr. Galante will be present at the next meeting. Mr. Keller made a motion to continue the public hearing. Mr. Manuel seconded the motion.

### CONTINUATION OF PUBLIC HEARINGS:

Venancio Realty LLC – Application for Special Exception to allow Garden Apartments ("Lauren Square") in the C-CBD Zone, 55 State St. (#I14424) – SE #674. Public hearing opened 8/6/08. First 35 days were up 9/8/08 – 35 day extension granted to 10/9/08.

Mike Mazzucco PE, said they have until the first meeting in October to close this. He said he has responded to the comments received so far. Mrs. Emminger said before this application was submitted they met and decided to forgo adding another unit and instead provide some visitor parking, so each unit has two spaces and there are three additional spaces for visitors. Mr. Mazzucco said that it was requested that they alter the front appearance of the building that

faces the street. So they moved a door to that side and added front covering so it looks more like the front of the structure. They have applied for Common Council Approval for the fire hydrant and are waiting for that also. Ms. Hoffstaetter asked if these units will be rentals or condos. Mr. Mazzucco said the applicant is not sure yet. Ms. Hoffstaetter said her reason for asking is that with a condo, they would have an association to control the parking. Mr. Mazzucco said the State Statutes require them to have an association if they become condos. Mrs. Emminger said the Fire Marshal said if someone blocks the marked fire lane, then they will be given a ticket. She added that we just got revised plans in yesterday and still need to distribute them, but there do not seem to be any major issues that would prevent them from closing the hearing.

Chairman Finaldi asked if there was anyone to speak in opposition to this and there was no one.

Mr. Urice made a motion to continue the public hearing. Mr. Manuel seconded the motion and it was passed unanimously.

<u>Jeffney & Lynn Peterson – Application for two (2) lot Re-subdivision (2.094 ac.) in the RA-40 Zone and Zone and Request for Waiver to Chap. 4, Sec. B.6.2.(a) of the Subdivision Regulations – 8 Fox Den Rd. (#C08111) – SUB #08-02. Public hearing opened 8/20/08 – First 35 days will be up 9/23/08.</u>

Attorney Fran Collins submitted copies of a site map that the Commission had requested. This was designated Exhibit A. Mark Kornhaas said he had met with Fran Lollie from Engineering at this site and they both agreed that there is no where to put a catch basin. He said they had determined that that the snow storage should be on the south side of the cul-de-sac. Mrs. Emminger said she had discussed the paved leak off issue with Mr. Lollie and their suggestion to the Lunds' is to extend the rip-rap to minimize the soil erosion. She added that this idea has not been discussed with the Lunds'. Mr. Kornhaas said the driveway is to be pitched away from the Davito property. All of the drainage will be handled on-site and the Engineering Dept. feels the drainage complies with the 25-year plan. Mr. Keller asked about the pole in the middle of the driveway. Mr. Fagan said the pole is abut a foot off the edge of driveway and since there will be no grade change for the driveway.

Attorney Collins said there is no reason to keep this hearing open since they have received comments from all of the City Depts. He added that they submitted revised plans in response to those comments.

Mrs. Emminger said she had spoken to Mr. Kornhaas about the buffer. She had suggested he take some pictures, but he said he did not have time. She suggested they add a condition that says prior to Certificate of Compliance being issued; the ZEO will make the determination as to whether they need to do any plantings in order to maintain the buffer as it was originally there. She added that also the construction limit line will be staked and it appears that there are trees in that area which should be saved if possible. Mr. Keller said they should require this so as to be consistent about keeping trees whenever possible.

Chairman Finaldi asked if there was anyone to speak in opposition to this application.

Brian Lund, 20 Cushing Dr. said he is more or less satisfied with tree line provisions. He added that he still is very concerned about the drainage. He expressed concern over the snow storage issue, because there is an existing gully and this plan will reduce the space available for this purpose. He added that he is not totally convinced that the riprap will work because he has seen it get washed away in other places.

Mrs. Emminger said she has kept the Lunds' informed about this issue; the paved leakoff is a defect of the original subdivision which was approved in the 1970's, when they didn't require catch basins. She said she has discussed this with the Engineering Dept. and this is how it was designed. Unfortunately the Lunds' bear the brunt of it, but there is no way to fix it. This proposal will increase the runoff and the best the City can offer is to request the applicant install additional riprap to control the runoff. She said they can't pipe it anywhere because there is no catch basin to catch it. The Engineering Dept. has determined that the drainage system designed for this proposal will handle whatever this site will generate. There was a discussion of some of the newer products available that might be better than riprap. Mr. Keller asked if they could ask the City Engineer to comment on these products. Mrs. Emminger said she does not believe that it is the applicant's responsibility to fix something that they are not causing. She added that whatever they decide to do could be defined in the decision resolution. She added that they should be careful about requiring something that goes beyond the scope of the Subdivision Regulations.

Mr. Keller made a motion to close the hearing with the stipulation that whatever information is received from the Engineering Dept. regarding the riprap issue still can be discussed. Mr. Urice seconded the motion and it was passed unanimously.

# OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Sugar Hollow Road Assoc. LLC —"The Shops at Marcus Dairy", 3 Sugar Hollow Rd. (#G17002 & #G17019) — SE #663. Public hearing closed 8/6/08 — 65 days will be up 10/9/08.

<u>Sugar Hollow Road Assoc. LLC – Application for Floodplain Permit – "The Shops at Marcus Dairy", 3 Sugar Hollow Rd. (#G17002 & #G17019) – SE #663.</u>

Mr. Keller made a motion to move these items to number 1 & 2 instead of 1 & 4 so they can discuss them together. Mr. Urice seconded the motion and it was passed unanimously.

Mrs. Emminger said she has been working on this for about fourteen months to try to resolve the floodplain issues. The City had hired an outside consultant to work on this and this consultant had signed off on it in March of this year. She said the signoff would allow for the flooding of the parking lot by three-to-four feet with equal compensation. She said neither the Planning nor the Engineering Dept. was satisfied with this, so we had asked the applicant's engineer to design something that would allow the flooding but not to exceed one foot in depth. She referred to a map that Artel had prepared designating the areas that would flood at this rate. Some areas would have greater amount of flooding but on a very limited basis. She said now the Commission can approve these applications without endangering the safety of the

area. She said the drainage and utilities have been signed off by the Engineering Dept. and a by-product of this application was the discovery that the Danbury Fair Mall needs to clean their drainage and storage system. She said this is the most complicated floodplain the City has ever had to review but this applicant has complied with everything in the Floodplain regulations. She then read a letter from Dainius Virbickas, the PE from Artel Engineering regarding the floodplain issue. She added that this letter had his professional seal on it to certify the content. Mr. Manuel asked about some unusual signs that he saw in the vicinity of the site. Mrs. Emminger said we asked that they place these signs, which notify the public of the possibility of flooding on the site. Mr. Urice made a motion to table this matter. Mr. Manuel seconded the motion and it was passed unanimously.

Interstate Business Center, LLC – Application for Special Exception/Revised Site Plan to allow Hotel, Professional Office Space & Restaurant ("Prindle Lane Centre") generating in excess of 500 vehicle trips per day in the CA-80 Zone, Prindle La. (#D14001) – SE #603. Public hearing closed 8/6/08 – 65 days will be up 10/9/08.

Chairman Finaldi said the Planning Staff is working on the resolution for this matter. Mr. Keller made a motion to table this matter. Mr. Deeb seconded the motion and it was passed unanimously.

Pamela Equities Corp. – Application for fourteen (14) lot subdivision (110.29 ac.) "Candlewood Pines" in the RA-80 Zone and Request for Waiver to Chap. 4, Section B.12. of the Subdivision Regulations – 65-67 Bear Mountain Rd. (#H03069) – Subdivision Code #08-01. Public hearing closed 8/20/08 – 65 days will be up 10/23/08.

Mr. Keller said although he is abstaining from this matter, since there is no new testimony he would stay in the room while they discuss it. Mrs. Emminger said the bond amount has been approved and she has submitted the final staff report. She went through a list of City Departments said the applicant has addressed most of the comments. She then asked for the Commission to give her some guidance on this. Mr. Urice said she should prepare the resolution. Mrs. Emminger said she would check out the EIC approval for this to see what they required. Mr. Urice made a motion to table this matter. Mr. Manuel seconded the motion and it was passed unanimously.

<u>Albert & Alan Lourenco – Application for Floodplain Permit – "Danbury Rent a Truck", 89</u> Triangle St. (#J14277) – SE # 669.

Mrs. Emminger said she had sent them a resolution but it has some typos in it, so she wanted to correct them now. She reminded them that they had approved the Special Exception in July of this year. She said this has the standard conditions regarding the requirements prior to the issuance of the Certificate of Compliance. Mr. Manuel made a motion to approve this per the revised resolution. Mr. Keller seconded the motion and it was passed unanimously.

82 Mill Plain Rd Realty LLC – Application for Special Exception/Revised Site Plan to allow HVAC Contractor's Office & Associated Warehouse in the CA-80 Zone – 82 Mill Plain Rd. (#D15016) – SE #671.

Mrs. Emminger pointed out one small correction to original resolution where it says change of use and it should say addition. Mr. Manuel made a motion to approve this per the revised resolution. Mr. Keller seconded the motion and it was passed unanimously.

### **NEW BUSINESS:**

Antonio Ramos & Antonio Narciso – Application for Special Exception to allow Metal Finishing ("A & A Ironworks") in the IL-40 Zone, 2 Broad St. (#K12270) – SE #678. *Public hearing scheduled for October 15, 2008.* 

Antonio Ramos & Antonio Narciso – Application for Floodplain Permit – "A & A Ironworks", 2 Broad St. (#K12270) – SE #678.

<u>Joseph, Angelo & Victor Desimone – Application for Floodplain Permit – "Danbury Ambulance", 14 Walnut St. (#I11054) – SP #81-14.</u>

8-3a Referral – Petition of B & L Holdings LLC, 2 Glen Hill Rd, 33, 35, 37 & 39 Tamarack Ave. a/k/a Rd. (#I10045, #I10044, #I10046, #I10047 & #I10048) for Change of Zone from RA-20 & RMF-6 to CG-20. Zoning Commission public hearing scheduled for October 14, 2008.

80 Mill Plain, LLC – Application for Special Exception to permit Retail/Warehouse generating more than 500 trips per day – 80 Mill Plain Rd (#D14003) – SE #652. *Previous application was withdrawn in February 2007 – Public hearing date to be determined.* 

Mrs. Emminger said there were some items missing when the 80 Mill Plain Rd. application came in, but it is now complete so the public hearing has been scheduled for 11/19/08. Chairman Finaldi said these applications would be on file in the Planning Office.

# **REFERRALS:**

Chairman Finaldi noted that the zone change petition for 8 Durant St. has been withdrawn.

8-3a Referral – Petition of Attorney Neil Marcus as Agent to Amend Sec. 5.A.2.a. of the Zoning Regulations. (Add "Granite, Marble & Tile Sales establishment including shaping of stones and similar processes" as a permitted use in the CG-20 Zone) *Zoning Commission public hearing scheduled for October 14, 2008.* 

Mr. Keller made a motion to table this matter until the next meeting. Mr. Deeb seconded the motion and it was passed unanimously.

<u>8-24 Referral/September '08 CC Agenda Item #10 – Request for Sidewalk Easement – 84 Hospital Ave.</u>

Mrs. Calitro reviewed the information in the staff report. Mr. Urice made a motion to give this a positive recommendation because the easement area for the sidewalk was shown on the approved site plan. Mr. Keller seconded the motion and it was passed unanimously.

<u>8-24 Referral/September '08 CC Agenda Item #11– Request for Water Extension by Shelter</u> Rock Business Center, LLC, 22 Shelter Rock La.

Mrs. Calitro reviewed the information in the SBC staff report. Mr. Urice made a motion to give this a positive recommendation with all of the standard conditions. Mr. Keller seconded the motion and it was passed unanimously.

<u>8-24 Referral/September '08 CC Agenda Item #12 – Request for Sewer Extension by John & Karlene Anderson 1 Mendes Rd.</u>

Mrs. Calitro briefly reviewed the staff report. Mr. Keller said this road has already been dug up twice, once for spring ridge and again to correct the error made the first time. Mrs. Calitro pointed out that the existing septic system is failing. Mr. Keller reiterated that it is not fair to the neighborhood to keep tearing up the road. They should just do it once and that is it. Mr. Manuel made a motion to give this a positive recommendation as it is located in the Proposed Sewer Service Area in the Plan of Conservation & Development and the existing septic system is failing. Mr. Urice seconded the motion and asked to add the standard conditions. Chairman Finaldi called a roll call vote and the motion was passed with four AYES. Mr. Keller abstained from the vote.

There was nothing under Correspondence and the For Reference Only listed two applications for Floodplain Permits and one public hearing scheduled for October 1, 2008.

At 9:40 PM, Mr. Keller made a motion to adjourn. Mr. Manuel seconded the motion and they passed unanimously.